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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,855	11/24/2006	Terence Toal	1747	7204
30008	7590	09/01/2009	EXAMINER	
GUDRUN E. HUCKETT DRAUDT			RUDAWITZ, JOSHUA I	
SCHUBERTSTR. 15A				
WUPPERTAL, 42289			ART UNIT	PAPER NUMBER
GERMANY			3652	
			MAIL DATE	DELIVERY MODE
			09/01/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,855	TOAL, TERENCE	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOSHUA I. RUDAWITZ	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 June 2009.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 10-13 and 17-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 10-13 and 17-19 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 10-13 and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner notes that the limitation regarding the first end of the belt being "permanently" connected to the carriage is unclear. No structure can be permanently connected as it can be dismantled or break through excessive use. As such, this limitation will not be considered absent additional structural limitations that would show how it is different from the connection disclosed in the prior art rejection.

2. Claims 10-13 and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the structure that allows for the belt to be "fixedly and permanently" connected to the first end of the carriage.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-13 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poten et al. (US5,249,907) in view of Tomilson et al. (US 2,491,318).

Poten et al. (Poten) discloses a carriage 1 with rollers 3 able to receive a defective wheel 30; a belt 6 having a first end fixedly connected to a first end of the carriage, at 25 via intermediate structure, and a second end detachably connected to a second end of the carriage, at 7; a ramp having a first end detachably connected to the first end of the carriage and a second end remote from the carriage; the belt has a second securing position, where it secures the wheel by going from the first end to the second end; the second end of the belt is adapted to be hooked to the carriage; the belt has an adjustable length; the ramp and the carriage are separate parts; the carriage has an axle; and the carriage has four rollers.

Poten fails to disclose the belts first position where the belt extends away from the first end of the carriage past the second end of the ramp, and the belt extends underneath or on top of the ramp; however, this would have been obvious to a person having ordinary skill in the art, at the time of invention, as it has been held that rearranging parts of an invention involves only routine skill in the art, in this case the belt is just draped in the opposite direction as the second position.

Poten additionally discloses the ramp is connected to the carriage at the axle, but fails to disclose the ramp has a hook structure that can be hooked onto the axle of the carriage from above.

Tomilson discloses a ramp structure that is hooked, via 37, onto a wheel carriage in order to allow for the operator to use the ramp for a plurality of carriages to

reduce the cost of the device. Therefore, it would have been obvious to a person having ordinary skill in the art, at the time of invention, to include the hook structure of Tomilson in the device of Poten in order to allow for the operator to use the ramp for a plurality of carriages to reduce the cost of the device.

With regards to claim 18:

Poten et al. discloses the bottom part is made of sheet metal, however fails to disclose the top part is made of plastic. It would have been obvious to a person having ordinary skill in the art, at the time of invention, to use plastic for the top part, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 10-13 and 17-19 have been considered but are moot in view of the new ground(s) of rejection.
6. With regards to applicant's arguments concerning the limitation "fixedly and permanently" in connection with the belt, the examiner directed the applicant to the new 35 USC 112 2<sup>nd</sup> paragraph rejections above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA I. RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 7:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. I. R./  
Examiner, Art Unit 3652

/Saúl J. Rodríguez/  
Supervisory Patent Examiner, Art  
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